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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/735,413

12/12/2003

Steven F. Bolling

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20995

7590

11/02/2006

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EXAMINER

SMITH, PAUL B

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/735,413	Applicant(s) BOLLING ET AL.	
	Examiner Paul B. Smith	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 25-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/26/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 5/26/2004 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner considers the references cited therein.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-13 and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Loiterman ('165).
3. Loiterman discloses a medical device comprising a body (1), a lumen (9), an inflation lumen (7), a balloon (4), and inflation means (10). Loiterman discloses a plurality of radially spaced balloons. Loiterman discloses multiple lumens. It is inherent that the balloons form a perfusion lumen when deployed. (See Figure 1 and 2)
4. It appears that Loiterman reasonably discloses every element of claims 1-13 and 20-23.
5. Claims 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulik *et al.* ('712).

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6. Kulik *et al.* discloses a medical device comprising a cannula body (2), a lumen (not referenced), apertures (8), and a sleeve (3). The sleeve is disposed on the outside of the cannula body and is configured to move radially and longitudinally. (See Figures 1, 3, and 4)

7. It appears that Kulik *et al.* reasonably discloses every element of claims 14-18.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik *et al.* ('712) in view of Loiterman ('165).

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11. Kulik *et al.* discloses a medical device comprising a cannula body (2), a lumen (not referenced), apertures (8), and a sleeve (3). The sleeve is disposed on the outside of the cannula body and is configured to move radially and longitudinally. (See Figures 1, 3, and 4)

12. Kulik *et al.* fails to disclose a cannula with multiple lumens.

13. Loiterman teaches using multiple lumens in a catheter for delivering various tools or medicant. (See Column 3 Lines 42-47)

14. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Kulik *et al.* with the teachings of Loiterman to provide a cannula with multiple lumens.

15. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loiterman ('165) in view of Gerberding ('187).

16. Loiterman discloses a medical device comprising a body (1), a lumen (9), an inflation lumen (7), a balloon (4), and inflation means (10). Loiterman discloses a plurality of radially spaced balloons. Loiterman discloses multiple lumens. It is inherent that the balloons form a perfusion lumen when deployed. (See Figure 1 and 2)

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17. Loiterman fails to disclose a sleeve disposed on the outer body to cover an aperture.

18. Gerberding teaches a sleeve disposed on the outer body of a catheter. The sleeve (250) is longitudinally movable to selectively cover an aperture (124) that is in fluid communication with a lumen (115) within the catheter (10). (See Figure 1 and 16)

19. It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the disclosure of Loiterman with the teachings of Gerberding to provide a sleeve disposed on an outer surface such that said sleeve selectively covers an aperture in the catheter body.

### ***Conclusion***

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul B. Smith whose telephone number is 571-272-6022. The examiner can normally be reached on 8 am - 4 pm.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul B Smith  
Examiner  
Art Unit 3763

PBS  
October 25, 2006

  
